IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

CRP.No. 628 of 2007()

AGAINST ORDER INE.A.434/06 IN E.P. 220/06 IN OS.353/1992 OF PRL.MUNSIFF COURT, CHERTHALA
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REVN. PETITIONER: COUNTER PETITIONERS/JUDGMENT DEBTORS 2 & 4:
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1. SASIDHARAN NAIR, NARAYANAMANDIRAM, FROM VADAKKE PERINGANATHU, THEVARVATTOM, THYKATTUSSERY.

2. ASHOK KUMAR, EDAYAZHATHU HOUSE, AROOKUTTY.

BY ADV. SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI
SRI.BRIJESH MOHAN
SRI.T.R.SADEESAN
SMT.DHANYA CHANDRAN

RESPONDENTS: PETITIONERS/DECREE HOLDERS:
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1. DEVAKIAMMA RAJAMMA, VENKIDATHU VEEDU, PANAVALLY VILLAGE, CHERTHALA.

2. AMMUKUTTYAMMA,VENKIDATHU VEEDU, PANAVALLY VILLAGE, CHERTHALA.

BY

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 13/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 628 OF 2007

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Dated this the 13th day of July, 2007.

O R D E R

This revision petition is preferred against the order of the learned Munsiff, Cherthala in E.A.434/06 in E.P.220/06 in O.S.353/92. A perusal of the order would reveal that the plaintiff has been given a decree with respect to plaint D schedule and plaint E schedule. Over plaint D schedule and E schedule the right of easement by necessity and easement by grant are granted by the Court. I am informed that no appeal is preferred against that decree. Now, the decree holder has moved the executing Court that in spite of the decree passed by the Court with respect to D and E schedule obstruction is caused by the defendants and therefore prays for implementation of the decree by way of execution and by way of removal of obstruction.

2. At present, the contention is to the effect that when grant of easement by necessity was given by the Court below, it did not take into consideration the alternate pathways available which will disentitle the plaintiff to get

easement by necessity. So far the executing Court is concerned it is only bound to carry out the directions granted in the decree unless the decree is vitiated and it is void. If any party is aggrieved by a wrong decision of the Court he may have to resort to appropriate remedies to redress his grievance. A Commissioner has inspected the property and he had submitted before Court that there is obstruction with respect to D and E schedule. So, in order to give respectability to the decree and to implement the same, the Court below has passed an order to remove the obstruction so that the decree of the Court is implemented. I do not find any irregularity or illegality in the order passed by the learned Munsiff and it does not require any interference at the hands of this Court. Therefore, the revision petition lacks merit and it is dismissed.

I make it clear that if there is any other statutory remedy available with the revision petitioner he is free to avail the same and get his grievance ventilated.

M.N. KRISHNAN, JUDGE.

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